

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA

PLAINTIFF

v.

Case No. 4:05-CV-00329-GKF-SAJ

TYSON FOODS, INC., et.al.

DEFENDANTS

**DEFENDANTS' OPPOSED JOINT MOTION AND INTEGRATED BRIEF IN SUPPORT
THEREOF TO EXPAND THE TIME TO RESPOND TO STATE OF OKLAHOMA'S
MOTION TO EXPAND THE DISCOVERY PERIOD (DKT #1418) AND
REQUEST FOR EXPEDITED HEARING**

COME NOW Defendants and for their Joint Motion to Expand the Time to Respond to State of Oklahoma's Motion to Expand the Discovery Period and Integrated Brief in Support Thereof (DKT #1418), state as follows:

1. That on or about July 6, 2007, the Court ordered a temporal limit on certain discovery in this case (DKT #1207);
2. That on or about December 21, 2007, plaintiff filed a motion to expand that temporal limitation (DKT #1418);
3. That while defendants agree that the issue is important and needs be considered by the parties and the Court at an appropriate time, defendants respectfully request that this Court expand or stay the time to respond to plaintiff's motion at this time due to the excessive burden it places on the defendants as set forth herein, pursuant to Fed. R. Civ. Pro. 6(1)(A).

Fed. R. Civ. Pro. 6(1)(A) provides that "When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires. . . ." This rule "must be liberally construed in order that litigants be given opportunity to be heard

and given their day in court so that justice may be served.” [*Anderson v. Stanco Sports Library, Inc.*, D.C.S.C.1971, 52 F.R.D. 108](#) (1971).

4. As the Court is aware, the plaintiff has filed a Motion for Preliminary Injunction in this case (Dkt # 1373). In preparation for that hearing, the parties have scheduled numerous depositions taking place over fifteen (15) of the remaining nineteen (19) business days in January, plus some additional depositions scheduled for February, and defendants’ response to the plaintiff’s aforementioned Motion for Preliminary Injunction is due on February 8, 2008.

5. That seven court days have also been set for the hearing on Plaintiff’s Motion for Preliminary Injunction, said dates being February 19-22 and March 3-5, 2008.

6. That there is also necessary preparation time for each of the depositions and the hearing, scheduling and preparing of rebuttal experts and opinions, and responding to the Motion for Preliminary Injunction, all of which simply make it an undue burden on defendants at this time to respond to or otherwise deal with and appropriately address the plaintiff’s Motion to Expand Discovery until after the Motion for Preliminary Injunction is disposed of. Moreover, the Plaintiff’s Motion to Expand Discovery is wholly unrelated to the preliminary injunction. Conversely, staying defendants’ response to this issue until after the preliminary injunction issues have been addressed does not prejudice the parties in any way.

7. That plaintiff’s Motion to Expand discovery is supported by a previously undisclosed expert. To respond, defendants will require discovery of this expert, and the time to determine if a rebuttal expert opinion is required, and if so, to allow such expert the time to prepare an opinion based upon the necessary discovery. Thus, responding to plaintiff’s Motion will require extensive consultation with clients and expert witnesses.

8. That the defendants have attempted to meet and confer with the plaintiff on this matter to try and narrow or resolve this issue, but the plaintiff has been unwilling to do so, and thus the parties are unable to agree that this is an issue that can be addressed after the conclusion of the hearing on the plaintiff's Motion for Preliminary Injunction.

9. That in consideration of all of these issues, there is good cause shown for granting the defendants' Motion to Expand the Time to Respond to plaintiff's Motion to Expand the Discovery Period until some time after the conclusion of the hearing on the plaintiff's Motion for Preliminary Injunction. Because a substantive response to the underlying Motion to Expand Discovery would be due on January 8, 2008, the parties request an expedited hearing.

WHEREFORE, defendants request that this Court stay or expand the time to respond to State of Oklahoma's Motion to Expand the Discovery Period until after the hearing on the Motion for a Preliminary Injunction.

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I certify that on the 7th of January, 2008, I electronically transmitted the attached document to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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